IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 173 of 1991

Date of Decision :- March 16, 2007

Murari Lal ....PETITIONER

VERSUS

State of Haryana ....RESPONDENT

CORAM: HON'BLE MR. JUSTICE MEHTAB S.GILL

Present:- Mr. Sandeep Mann, Advocate
for the petitioner.

Mr. S.S.Goripuria, DAG Haryana.

MEHTAB S.GILL, J.

This is a revision against the judgment dated 27.3.1990 of the learned Sessions Judge, Narnaul, whereby he dismissed the appeal of Murari Lal son of Ram Nath, but released him on probation on furnishing bail bonds under the Probation of Offenders Act. The trial Court convicted the petitioner Under Section 409 of Indian Penal Code and sentenced him to undergo R.I. for three years and to pay a fine of Rs.500/-, in default to further undergo R.I. for two months, but released him on probation.

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The case of the prosecution is that in the year 1979, petitioner and his co-accused Jaswant Rai, collected taqavi loans amounting to Rs.5377.50 ps. from the residents of Village Tankri. They failed to deposit this amount in the treasury and misappropriated this amount. Accused Jaswant Rai was Patwari Halqa Tankri, whereas the petitioner worked as a peon.

The prosecution to prove its case brought into the witness box Moji Ram as PW1, Bhawar Singh as PW2, Gordhan Singh as PW3, Dalip Singh as PW4, Amar Singh as PW5, Sultan as PW6, Umrao as PW7, Mahabir as PW8, Baljit Singh as PW9, Ramo Awatar as PW10, Dharam Pal PW11, Smt. Sarbati as PW12, Mohar Singh as PW13, Bhim Sain as PW14, Mahabir Singh as PW15, Luxmi Narain Sub Inspector as PW16, Faquir Singh as PW17, Siri Kishan as PW18, Ram Narain as PW19, Sohan Singh as PW20, Sardara as PW21, Prabhati Lal as PW22, Ragubir as PW23, Matadin as PW24, Ranjit Singh ASI as PW25 and Murti as PW26.

Learned counsel for the petitioner has argued, that no witness has come from the side of the prosecution to show that the petitioner and his co-accused were authorised to recover this amount. In fact witnesses have stated to the contrary, that the petitioner and his co-accused did not have any authority to recover these taqavi loans under the Land Record Manual. At the most, an offence under Section 420 IPC is made out against the petitioner. Petitioner Murari Lal at that time, when the appeal was heard, was 58 years old and his co-accused Jaswant Rai was 50 years old. As of today, petitioner is about 75 years old and accused Jaswant Rai is about 67 years old.

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Learned counsel for the State has argued, that entrustment of Rs. 3729.50 ps. has been proved by the prosecution witnesses. The amount had been paid to accused Jaswant Rai in the presence of the petitioner. Some of the receipts issued by accused Jaswant Rai and some by the petitioner had been put on record. These receipts are amounting to Rs.3729.50 ps.

I have heard the learned counsel for the parties, perused the record and the impugned judgment with their assistance.

Hari Krishan Sadar Kanungo DW1 in the office of the Deputy Commissioner, Narnaul, has deposed that according to the Land Record Manual, Patwari had no authority to recover the taqavi loans. Ramdhan DW2, an official in the Tehsil Office, has stated on similar lines. Hardayal Singh Office Kanungo, Rewari has stated, that the petitioner and his co-accused did not have any authority to recover the loan. The Appellate Court had already taken a lenient view in the case by releasing the petitioner on probation.

I do not find any infirmity in the judgment of the learned trial Court.

Dismissed.

March 16, 2007 **(MEHTAB S.GILL)**
ska **JUDGE**

WHETHER TO BE REFERRED TO REPORTER? YES/NO